

**IN THE DISTRICT COURT OF THE UNITED STATES
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

DONNA DORSEY DAVIS, etc.)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO:
)	2:06CV766-MHT
RICHARD M. DORSEY, etc.,)	
and CD&O, LLC, etc.,)	
Defendants.)	

MOTION TO RECONSIDER THE EXTENTION OF DISCOVERY DEADLINE

NOW COMES, the Plaintiff, by and through her attorney of record, Lindsay B. Erwin, and does show unto this Honorable Court the following:

1. That on the 2nd of April, 2007, Counsel for the Plaintiff filed a Motion to Extend the Discovery Deadline.
2. That this Honorable Court denied said Motion for not having contacted the Attorney for the Defendant and for failure to explain said circumstances as to the “eleventh hour” filing.
3. Counsel for the Plaintiff acted prudently on the 5th of January, 2007 requesting that Counsel for the Defendant make himself and his client available at his convenience for depositions at his office. (See Exhibit “A”).
4. After numerous phone calls without any response from Counsel for the Defendant throughout the month of January, 2007, Counsel for Plaintiff sent another letter on the 1st of February, 2007 trying to resolve the Discovery issues without Court interference. (See Exhibit “B”).
5. Counsel for the Plaintiff sent confirmation of the attorneys’ phone conversation on the 7th of February, 2007 in which Counsel for the Defendant was to let Counsel know on possible dates for said depositions. (See Exhibit “C”).
6. It was not until March 13, 2007 that the Deposition of the Defendant, Richard M. Dorsey was taken at his attorney’s office in Prattville, Alabama.
7. During the deposition of Richard M. Dorsey, Plaintiff learned the names of individuals who have information relevant to the Plaintiffs claims and defenses in this matter. Furthermore, many documents were requested and agreed to be produced to Counsel for the Plaintiff, but such documentation has not been produced as of this date and is critical for the depositions of the other non-parties.
8. Counsel for the Plaintiff did not receive the depositions of the Plaintiff and the Defendant from the reporter until March 19, 2007.

9. Due to the Plaintiff being located in South Carolina, she has not had the opportunity to read and sign her own deposition.

10. Notice of Depositions for Jo Ann Perry, the book keeper for I-65 Properties, Inc., George W. Walthall, the attorney who prepared all documentation regarding the formation of I-65 Properties, Inc., and Alan Taunton, the certified public accountant for I-65 Properties, Inc., was sent notice on March 30, 2007 for said depositions to take place on April 16, 2007. Said two week notice is not prejudicial against the parties involved, and Counsel for Plaintiff will assume to go forward even though the request for documents are critical to this case. Notwithstanding Counsel's failure to produce, he had sufficient time and deemed it appropriate to file his Motion for Summary Judgment.

11. Plaintiff's counsel can not adequately defend Defendant's premature Motion for Summary Judgment until such time as all relevant information and documentation of discovery is complete.

12. Counsel for the Plaintiff is newly out of law school, previously running a solo practice in Birmingham, Alabama before recently joining the firm of Meacham, Earley & Fowler in Columbus, Georgia. Counsel would not consider making excuses before this Court, but said relocation in January, 2007 has required Counsel to do extensive traveling between Birmingham and Columbus in an effort to wind up her business while still maintaining an on going case load.

13. Counsel for the Plaintiff has attempted to contact Counsel for the Defendant regarding said continuance but with no avail. Defendant would not be prejudiced in anyway as to the extension of the deadline of the Discovery Request.

14. Furthermore, in no way will the extension of said deadline effect the date of the trial in this matter previously set by this Honorable Court.

WHEREFORE, ABOVE PREMISES CONSIDERED, Plaintiff moves this Honorable Court to reconsider the Denial of the Motion to Extend the Discovery Deadline and respectfully request that the discovery be extend for sixty (60) days to allow Plaintiff conduct other depositions to obtain information relevant to this matter.

Respectfully submitted,

//s// Lindsay B. Erwin
Lindsay B. Erwin
ASB-5299-Y59E
Attorney for Plaintiff

Meacham, Earley & Fowler, P.C.
5704 Veterans Parkway
Columbus, Georgia 31904
(706) 576-4064

CERTIFICATE OF SERVICE

I hereby certify that on the 2 day of April, 2007, I electronically filed the foregoing with the Clerk of the Court using electronic filing system which will send information of such filing to the following:

Clifford W. Cleveland
Cleveland & Colley, P.C.
P.O. Box 680689
Prattville, AL 36068

James E. Roberts, Esquire
4908 Cahaba River Road, Suite 204
Birmingham, AL 35243

//s// Lindsay B. Erwin
OF COUNSEL

LINDSAY B. ERWIN
Attorney at Law
3516 Vann Road, Suite 114
Birmingham, Alabama 35235
(205) 661-6566

January 5, 2007

Mr. Clifford W. Cleveland, Esq.
Cleveland & Colley, P.C.
Post Office Box 680689
Prattville, Alabama 36068

RE: Davis v. Dorsey, et al.

Dear Mr. Cleveland:

As you know from the scheduling order, the deadline for discovery is fast approaching. I would like to take your client's deposition at your office and at a time that is convenient for you. Please provide me with a list of three dates in which it might be possible to schedule the depositions. I will then contact my client in an effort to accommodate us all.

I look forward to hearing from you soon.

Respectfully,

Lindsay B. Erwin, Esq.

February 1, 2007

Mr. Clifford W. Cleveland
Cleveland & Colley
P.O. Box 680689
Prattville, AL 36068
Via Fax: 334 365 1601

RE: Davis V. Dorsey
Civil Action No. 2:06 CV 766-MHT

Dear Mr. Cleveland,

As you are aware from the Uniform Scheduling Order in the above case , the expert's identity and reports are due to be disclosed today. However, due to the inability of having depositions scheduled, I respectfully ask for your consent to have the deadline extended. I cannot prepare an expert for his testimony without the proper deposition of your client. I do expect to have a forensic accountant inspect all records and a valid appraiser make an expert appraisal of the property.

Furthermore, I have called your office and sent a letter of January 5, 2007, requesting a date on which your client could be deposed. At this time, I will go forward with the filing of a Notice of Deposition to be taken in Birmingham, Alabama within the next couple of weeks.

It has come to my attention, that there may be a conflict in your representation of Mr. Dorsey in this matter. Seeing as how you are a member of the Board of Directors of I65 Properties, Inc., I do not know, as of yet, the extent of your involvement in this matter. This letter is to give you notice of the potential liability of a conflict and your future involvement with this suit.

I will have all discovery requests to Mr. Dorsey by next week. Please let's work together in an effort to move this suit along properly so as to the Scheduling Order so that the Court's involvement will be minimal.

I look forward to hearing from you soon.

Respectfully,

Meacham, Earley & Fowler, P.C.

Lindsay B. Erwin

cc: Mrs. Donna Davis

February 7, 2007

Mr. Clifford W. Cleveland
Cleveland & Colley
P.O. Box 680689
Prattville, AL 36068
Via Fax: 334 365 1601

RE: Davis V. Dorsey
Civil Action No. 2:06 CV 766-MHT

Dear Mr. Cleveland,

This letter is in response to our conversation on February 1, 2007. I have been informed that you had been nominated as a Board Member but declined such position so there will be no conflict in you continuing to represent Dick Dorsey.

It is my understanding that we will extend the expert witness list to after depositions have been completed. You will be checking with your client on or about the week of February 19, 2007, and get back with me on some possible dates and times upon which we could hold the depositions at your office.

I look forward to hearing from you soon.

Respectfully,

Meacham, Earley & Fowler, P.C.

Lindsay B. Erwin